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Senate Bill (SB) 964 Study Report

1. PURPOSE

This Request for Proposal (RFP) invites submissions from eligible bidders to conduct a study to assess options for alternatives to the California High School Exit Examination (CAHSEE) for students who are individuals with exceptional needs [as defined in Education Code Section 56026, or who are disabled, as defined in Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794)] to be eligible for a high school diploma, and to make recommendations about graduation requirements and assessments. The study is required by Senate Bill (SB) 964 (see Appendix 1) and must be completed by May 1, 2005.

A report from the SB 964 Study is due no later than May 1, 2005. The report must recommend options for graduation requirements and assessments, if any, for students with an Individualized Education Program (IEP) or Section 504 Plan; identify provisions of state and federal law and regulation that are relevant to graduation requirements and assessments for students with an IEP or Section 504 Plan; and recommend steps, to the extent applicable, to bring California into compliance with state and federal law and regulations.

The bidder must have sixty (60) months of experience in conducting similar studies and expertise in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and applicable state law, as well as assessments for pupils with disabilities. The bidder must have expertise with, and significant understanding of, the complexities of large scale, high stakes assessment systems.

The State Superintendent of Public Instruction will establish by April 30, 2004, a 15-member High School Exit Examination for Pupils with Disabilities Advisory Panel to advise the bidder selected.

Proposals in response to this RFP are due no later than 12:00 noon PT on March 19, 2004 (See also Section 5.1).

2. BACKGROUND AND REQUIREMENTS OF THE CALIFORNIA HIGH SCHOOL EXIT EXAMINATION (CAHSEE)

Education Code sections 60850-60859 govern the development and administration of the CAHSEE. In enacting this measure, the Legislature declared that "local proficiency requirements . . . are generally set below a high school level and are not consistent with the state adopted academic content standards" and that "the state must set higher standards for high school graduation." The law established the CAHSEE to help address this need by requiring that "...each pupil completing grade 12...successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school." The CAHSEE has two portions, English-language arts and mathematics, and

both must be passed, or satisfied through the waiver process [Education Code Section 60851 (c)] as a condition of graduation.

Currently, California law requires all students to pass the CAHSEE as a condition of graduation beginning with the class of 2006. While there is no provision to opt out of the CAHSEE and still graduate from high school, there is an alternate means of satisfying the CAHSEE requirement. The alternate means allows students with disabilities to take the CAHSEE with any accommodations or modifications identified in their IEP or Section 504 Plan for use on the CAHSEE, standardized testing, or for use during classroom instruction and assessments. If a student takes the CAHSEE with modifications that fundamentally alter what the exam measures and receives the equivalent of a passing score on one or both parts of the exam, the school principal shall, on behalf of the student's parents, submit a waiver of the requirement to successfully pass the CAHSEE to the local school district governing board.

To date, CDE has not been notified of any student on track for graduation who has not been able to access the CAHSEE with the use of accommodations or modifications, and who would therefore, need an alternative assessment. This was one of the issues in the Chapman et al. v. SBE, et al., litigation recently dismissed from federal court. At no time during the litigation were plaintiffs able to identify students with disabilities who could not access the CAHSEE through the use of accommodations or modifications.

The study called for by this RFP should examine if there is a need for an alternative to the CAHSEE, e.g., are there students who have a disability who cannot access the CAHSEE, even with accommodations and modifications, and what is that disability. In the event that the SB 964 Study should determine there is a need for an alternative to the CAHSEE or the graduation requirements, the study should also determine if an alternative to the CAHSEE can be developed that meets the needs of students with disabilities, and is of the same rigor of the academic content standards assessed on the CAHSEE. Any recommended alternative would need to be equivalent to the CAHSEE to meet the requirement of law to pass the CAHSEE as a condition of graduation.

Test Design, Validity, and Reliability

The CAHSEE is based on a sound psychometric design that ensures curricular and instructional validity and yields scores that are valid and reliable (Education Code Section 60850). The overall test design addresses issues arising from the need for comparable year-to-year test results. To support its high-stakes use, the exam, including the technical quality of the scores produced, are of the highest technical quality and must at a minimum meet the *Standards for Educational and Psychological Testing* (1999) adopted by the American Educational Research Association (AERA), the American Psychological Association (APA), and the National Council on Measurement in Education (NCME). Any recommended assessments proposed by this study must meet all of these requirements.

The CAHSEE is required to be aligned with statewide academically rigorous

content standards in English-language arts and mathematics as adopted by the State Board of Education, per Education Code Section 60850 (a). Any recommended assessments proposed by this study must be aligned with the English-language arts and mathematics academic content standards on the CAHSEE.

The test questions on the CAHSEE must be examined by the Statewide Pupil Assessment Review (SPAR) Panel established pursuant to Education Code section 60606. The panel is to review all test questions to ensure that the content of the examination complies with the requirements of Education Code Section 60614. Any recommended assessments proposed by this study must also be reviewed by the SPAR Panel prior to being adopted by the State Board of Education.

CAHSEE Regulations

Regulations governing the CAHSEE can be found on the Internet at: <http://www.cde.ca.gov/statetests/cahsee/> (Title 5, California Code of Regulations, sections 1200-1225). Topics covered in CAHSEE regulations include test administration, test security, cheating, and apportionment.

Independent Evaluation

Education Code section 60855 requires an independent evaluation of the CAHSEE (separate from the study described in this RFP) and specifies that the "...evaluation shall be based on information gathered in field testing and annual administrations of the examination." It also specifies "Evaluation reports shall include recommendations to improve the quality, fairness, validity, and reliability of the examination. The independent evaluator may also make recommendations for revisions in design, administration, scoring, processing, or use of the examination." The independent evaluator's reports are available on CDE Web site on the CAHSEE home page at: <http://www.cde.ca.gov/statetests/cahsee/>.

Accountability Uses of the CAHSEE

The CAHSEE is used for state and federal accountability purposes. It is part of the state accountability program's Academic Performance Index (API) and is the high school test for the federal accountability program "No Child Left Behind" (NCLB) reporting of Adequate Yearly Progress (AYP). NCLB requires that all students participate in state assessments. Information on the API and AYP can be found on CDE Web site at: <http://api.cde.ca.gov/> and <http://www.cde.ca.gov/ayp/>. Each assessment used for AYP must determine if a student performs at a proficient level or above. Any recommended alternatives to the CAHSEE or any recommended assessments must be able to conform to the API and AYP requirements.

CAHSEE Information on the Internet

There is a large body of information available on the Internet about the CAHSEE, including Frequently Asked Questions (FAQs) and resources, such as released test questions, and test blueprints. More information about the CAHSEE can be found via the Internet at: *<http://www.cde.ca.gov/statetests/cahsee>*.

3. SCOPE OF THE PROJECT

This section of the RFP outlines the tasks to be implemented under the contract for this study. The technical proposal must address all the tasks outlined in Section 3.0 and must describe how the bidder will address these tasks.

3.1 Project Maintenance Activities

To monitor project activities, CDE requires monthly written progress reports and bi-weekly meetings with the project manager.

The Technical Proposal must describe how the bidder will address all tasks and activities specified below.

- a. Progress Reports -- Monthly progress reports noting progress on all relevant tasks and activities must be submitted. The progress report must describe major project deliverables completed, reflect all tasks identified in the invoice, and note any discrepancies, unanticipated outcomes, or problems. The monthly progress report must be e-mailed to CDE by noon (Pacific Time) on the last Friday of each month and a signed original and a copy must be submitted with the monthly invoice.
- b. Bi-Weekly Meeting with CDE -- The proposal must specify that meetings every two weeks between the project manager and the CDE project monitor or designee will be held to discuss task implementation and status. Fourteen of the meetings must be held in Sacramento at CDE and ten phone conference calls may be substituted for bi-weekly meetings. The project manager must prepare the agenda for the meeting and prepare minutes from the meeting. All costs for the project manager for attending meetings associated with contract must be paid for by the contractor.
- c. Advisory Panel Meetings -- The Superintendent of Public Instruction will appoint the advisory panel and will provide resources and a meeting location for three advisory panel meetings. The project manager must set the dates for three meetings with the advisory panel, attend the panel meetings, and prepare the agenda, with input from CDE, for each meeting. The project manager will advise CDE on what resources will be provided to the panel. Three public meetings will be held in accordance with the Bagley-Keene Open Meeting Act (Government Code Section 11120 et seq.).

3.2 SB 964 Study Tasks

The proposal shall provide a work plan and timeline that describes how the bidder will address the tasks described below necessary to develop the study:

- a. Identify those provisions of state and federal law and regulations that are relevant to graduation requirements and assessments for California students who are individuals with exceptional needs as defined in Section 1 of this RFP under Purpose.
- b. To the extent applicable, and in keeping with the Court's ruling in *Chapman, et al. v CDE, et al.*, (U.S.D.C. CV-01-01780), recommend the steps necessary to bring California into full compliance with the provisions of state and federal law and regulations that are relevant to graduation requirements and assessments for students who are individuals with exceptional needs as defined as defined in Section 1 of this RFP under Purpose.
- c. Identify options for graduation requirements for California students who are individuals with exceptional needs as defined in Section 1 of this RFP under Purpose.
- d. Identify options for assessments that are aligned with the academic content standards on the CAHSEE and are equivalent to the CAHSEE for California students who are individuals with exceptional needs as defined in Section 1 of this RFP under Purpose.
- e. Identify equivalent alternatives to the CAHSEE that would allow students to demonstrate their competency in the English-language arts and mathematics academic content standards assessed on the CAHSEE and receive a high school diploma.
- f. Provide a summary of reports, research, and analysis completed or reviewed to identify the options in c, d, and e above.
- g. Provide a summary of alternative graduation requirements from other states that have high-stakes examinations as a condition of graduation.
- h. Provide evidence of how any recommended assessments or other alternatives to the CAHSEE (which may include a portfolio assessment) will meet the requirements for a high-stakes, graduation exam as described in Section 2 of this RFP under Test Design, Validity, and Reliability. For each option, the bidder must provide evidence regarding a recommended assessment or an alternative to the CAHSEE in response to the following criteria:
 - The psychometric design will ensure curricular and instructional validity and will yield scores that are valid and reliable.
 - The overall test design addresses issues arising from the need for comparable year-to-year test results.
 - The psychometric design will ensure that the test will be of the highest technical quality, including the scores produced, to support

its high-stakes use, and, at a minimum meet the *Standards for Educational and Psychological Testing* (1999) adopted by the American Educational Research Association (AERA), the American Psychological Association (APA), and the National Council on Measurement in Education (NCME).

- The test will be aligned to the State Board adopted academic content standards now assessed by the CAHSEE.
- i. Recommend options for graduation requirements and assessments, if any, that meet the requirements necessary for a high-stakes exam as described above.
- j. Recommend alternatives to the CAHSEE that meet the requirements necessary for a high stakes exam as described above for how students with exceptional needs (as defined in Section 1 of this RFP under Purpose) may demonstrate their competency in reading, writing, and mathematics, and receive a high school diploma.
- k. If the recommended options for graduation requirements and/or recommended assessments and/or recommended alternatives to the CAHSEE are not equivalent to the graduation requirements and assessments for non-disabled students, the bidder may make recommendations regarding an alternative diploma or other recommendations as appropriate.

3.3 Production of SB 964 Study Report

The proposal must provide a plan and timeline to produce a preliminary and final report.

- a. By March 1, 2005, the bidder must provide CDE with 50 copies of the preliminary report. The bidder must present the preliminary report to the advisory panel at one of the three meetings convened by the CDE to receive the panel's concerns and recommendations.
- b. By May 1, the bidder must provide CDE with 250 copies of the final report, with the advisory panel's concerns and recommendations incorporated, to CDE for distribution to members of the advisory panel, the Legislature, the Legislative Analyst's Office, the Department of Finance, the State Superintendent of Public Instruction, the State Board of Education, the Secretary of Education, and the chairs of the education policy committees in both houses of the Legislature, in accordance with Education Code section 60850(d).
- c. The final report must include an Executive Summary, the full text, and appendices containing all relevant tabulated materials. The contractor must also submit a standard word processing original of the text and standard spreadsheet or tab-delimited version of all tables and technical

appendices. The final report must be provided in a PC compatible format and in a PDF version suitable for distribution and posting on the CDE Web site. The contractor is responsible for all clerical and technical staffing and costs to produce drafts and a preliminary and final report. CDE must have the final report by April 19, 2005 and will do a standard review prior to making it public. The bidder will be responsible for making any suggested corrections or edits made by CDE and must return it to CDE by May 1, 2005. The final report shall be provided in electronic and bound paper media. The *Style Manual for the California Department of Education*, published by CDE Press www.cde.ca.gov/cdepress/download.html, is to be used for the report.

4. GENERAL PROPOSAL INFORMATION

4.1 Bidder Eligibility and References

Public or private corporations, agencies, organizations, or associations with at least sixty (60) months of experience in conducting similar studies and with significant expertise on the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and applicable state law, as well as assessment of pupils with disabilities may submit proposals in response to this RFP. The bidder must also have expertise with, and significant understanding of, the complexities of large scale, high stakes assessment systems.

The bidder must be legally constituted and qualified to do business within the State of California (registered with the Secretary of State). Bidders must submit a current Certificate of Good Standing issued by the California Secretary of State (see Section 5.2.2.e). For information and to obtain the certificate, contact the Secretary of State at 1500 11th Street, Sacramento, CA 95814. It may take the Secretary of State's office two weeks or more to process your request so allow sufficient time to obtain the certificate.

With the exception of bidders whose legal status precludes incorporation (i.e., public agencies, sole proprietorships, partnerships), bidders who are not fully incorporated and in good standing by the deadline for submitting proposals shall be disqualified.

If the bidder's legal status precludes incorporation, include a separate paragraph in the cover letter stating clearly the bidder's legal status.

4.2 Definitions

- a. "Bidder" shall mean every public or private corporation, agency, organization, or association with at least sixty (60) months of experience in conducting similar studies and with significant expertise on the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and applicable state law, as well as assessment of

pupils with disabilities, who submitted a proposal by the acceptance deadline. The bidder must have expertise with, and significant understanding of, the complexities of large scale, high stakes assessment systems.

- b. "Content standards" shall mean the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested. EC Section 60603(d).
- c. "Specifications" shall mean the minimum specifications required by CDE for a work element or task of a work element. Specifications provided in this RFP represent a comprehensive outline of the detail required in the bidder's proposal for successful accomplishment of a work element or task.
- d. "Subcontractor" shall mean each and every company selected by a bidder that is anticipated or proposed to perform work in support of the accomplishment of any portion of work described in this RFP.

In addition, for purposes of Disabled Veteran Business Enterprise (DVBE) ONLY, vendors selected to meet DVBE requirements are considered subcontractors. No other vendors are considered subcontractors for any purpose.

- e. "Subcontract" shall mean each, any, and all contracts and each, any, and all opportunities for a contract that are known or anticipated by the bidder to be issued to support the accomplishment of any portion of work described in this RFP.
- f. "Portion of work" shall be defined by the bidder for purposes of compliance with DVBE requirements. Public Contract Code section 10115.12(a)(2) precludes the use of more than one subcontractor to perform a "portion of work" as defined by the bidder in his or her proposal if a subcontractor identified as a DVBE is to be used for that portion of work. If more than one subcontractor, including any print vendor, is proposed whether identified as a DVBE or not, the bidder must clearly specify in the Cover Letter for which "portion of work" the proposed subcontractors will be used.

4.3 Contract Funding and Time Period

Time Period and Funding

It is anticipated that this contract will begin approximately on or after May 1, 2004 and will be completed approximately on May 31, 2005. The actual starting date of the contract is contingent upon approval of the contract by the Department of General Services (DGS) and continued legislative authorization. A maximum of \$400,000 is available for this contract.

This contract is subject to restrictions, limitations, or conditions included in the Budget Act or other statute enacted by the Legislature, which may affect the provisions, terms or funding of this contract. If sufficient funds are not made available, the State may cancel the contract with no liability occurring to the State and the contractor shall not be obligated to perform or the contract may be amended to reflect the reduced amount.

4.4 Cost of Preparing a Proposal

The costs for preparing and delivering the proposal are the sole responsibility of the bidder. CDE will not provide reimbursement for any costs related to the bidder's involvement in the RFP process, including any travel expenses.

4.5 Bidders' Conference

The bidders' conference will be conducted on February 17, 2004, at 1430 N Street, 2nd Floor, Conference Room 2102, Sacramento, California, from 9:00 a.m. to 10:00 a.m. PT. The purpose of the bidders' conference is to provide a forum for bidders to review the RFP's content and format requirements, receive an overview of the scope of the required work, and ask clarifying questions.

Questions may be submitted prior to the bidders' conference as explained in Section 4.7. All questions and answers presented at the bidders' conference will be included in the posting on CDE Web site and e-mailed as described in Section 4.7.

Cost of travel to the bidders' conference is the sole responsibility of the bidder/attendee and will not be reimbursed by CDE.

4.6 Intent to Submit

The bidder must submit an Intent to Submit (Appendix 2) by regular postal service, express courier, or otherwise hand delivered to the Standards and Assessments Division at the following address: California Department of Education, Standards and Assessment Division, California High School Exit Examination office, 1430 N Street, Suite 5408 Sacramento, CA 95814, Attn: Karen Almquist. Any Intent to Submit submitted by facsimile must be sent to (916) 319-0969, Attn: Karen Almquist. The intent to submit must be received by February 19, 2004 no later than 2:00 p.m. PT. Transmission by electronic mail shall not be accepted. It is the bidder's responsibility to ensure that the intent to submit reaches the Standards and Assessment Division in Suite 5408. Proposals for which an Intent to Submit has not been received in the Standards and Assessment Division by 2:00 p.m. on February 19, 2004, will not be accepted.

4.7 Questions and Clarifications

Bidders may submit questions, requests for clarification, concerns, and/or comments (hereinafter referred to collectively as “questions”) regarding this RFP. All questions, including those presented at the bidders’ conference (Section 4.5), must be submitted in writing. The bidder must include its name, e-mail address, and telephone number in its submission. The bidder must specify the relevant section and page number of the RFP for each question submitted. CDE will post written responses to all questions that are in proper form and received by CDE by 12:00 p.m. PT on February 18, 2004. CDE will publish its written responses on CDE’s Web site and will e-mail its responses to all parties that submitted an Intent to Submit form by the deadline. CDE will publish its responses by 5:00 p.m. PT on February 24, 2004.

All questions must be submitted either by e-mail, or facsimile. Address e-mails to Kalmquis@cde.ca.gov, send facsimiles to Attention: Karen Almquist (916) 319-0969.

4.8 Time Schedule

Activity	Deadlines
Request for Proposals Released	January 30, 2004
Bidders' Conference	February 17, 2004 9:00 a.m. to 10:00 a.m. PT 1430 N Street, 2 nd Floor Conference Room 2102 Sacramento, CA 95814
Deadline for Questions	February 18, 2004 by 12:00 noon PT Attention: Karen Almquist Fax: (916) 319-0969 E-mail: Kalmquis@cde.ca.gov
Intent to Submit Due	February 19, 2004, received no later than 2:00 p.m. PT in the Standards and Assessment Division 1430 N Street, Suite 5408 Sacramento, CA 95814 Fax: (916) 319-0969
Q&A Posted on CDE Website	February 24, 2004 by 5:00 p.m. PT
Proposals Due	March 19, 2004, received no later than 12:00 noon PT in the Standards and Assessment Division 1430 N Street, Suite 5408 Sacramento, CA 95814
Proposal Review	March 22 to 25, 2004
Bid Opening Date	March 26, 2004 10:30 a.m. PT 1430 N Street, 2 nd Floor Conference Room 2102 Sacramento, CA 95814
Posting of Intent to Award	March 29 to April 5, 2004
Contract Start Date	May 1, 2004 (anticipated)

5. PROPOSAL SPECIFICATIONS

5.1 General Requirements

The proposal submitted must comply with all format and content requirements detailed in this section. Each bidder must submit to CDE a Technical Proposal that describes its experience, its qualifications to conduct the required activities, and its approach to completing the tasks. One (1) original and ten (10) copies of the Technical Proposal, along with all required attachments, must be sealed, marked, and boxed separately from the Cost Proposals. All Technical Proposals must be clearly labeled on the outside of the envelope or package with the following proposal title:

**TECHNICAL PROPOSAL FOR
SB 964 STUDY REPORT**

Separately, each bidder must submit a Cost Proposal that describes the costs for completing the tasks. One (1) original and five (5) copies of the Cost Proposal must be sealed, marked, and boxed separately from the Technical Proposals. The Cost Proposal will NOT be opened unless the Technical Proposal has met the requirements of Step I, Part 1 through Part 3. All Cost Proposals must be clearly labeled on the outside of the envelope or package with the following proposal title:

**COST PROPOSAL
FOR THE
SB 964 STUDY REPORT**

Do not open before March 26, 2004, at 10:30 a.m. PT.

Proposals sent by regular postal service, express courier, or otherwise hand-delivered must be directed to CDE at the following address:

California Department of Education
Standards and Assessment Division
California High School Exit Examination Office
1430 N Street, Suite 5408
Sacramento, CA 95814
Attention: Karen Almquist

The full submission, consisting of both the Technical Proposal and the Cost Proposal, must be received in CDE, Standards and Assessment Division, Suite 5408, to the attention of Karen Almquist, no later than 12:00 Noon PT

on or before March 19, 2004. Transmission by electronic mail (modem/internet) or facsimile (fax) shall not be accepted. It is the bidder's responsibility to ensure that the submission reaches the Standards and Assessment Division in Suite 5408 by the deadline. Sufficient time should be allowed for the submission to go through the appropriate steps to reach Suite 5408, [(1) check in with security guard in lobby; (2) ask the security guard to phone the Standards and Assessment Division (Karen Almquist at 916-319-0339 or CAHSEE main line at 916-445-9449 or Division main line at 916-445-9441) to obtain authorization for bidder/bidder's representative to enter Suite 5408; and (3) The bidder/bidder's representative to deliver the package(s) to Suite 5408]. CDE staff cannot assist bidders in meeting the requirements of this RFP. Proposals received after the time and date specified shall not be accepted and shall be returned to the sender unopened and marked "LATE RESPONSE."

The terms and conditions within the State's proposed agreement as set forth herein are not negotiable. In the event a proposal is submitted that in any way deviates, alters, modifies, or otherwise qualifies any of the terms herein, the proposal will be rejected and eliminated from the review process.

NOTICE: SUBMITTED PROPOSALS ARE PUBLIC RECORDS. All

Technical Proposals and all related documents submitted in response to this RFP will become the property of the State of California and are considered public records subject to disclosure upon request pursuant to Government Code section 6250 et seq. All Cost Proposals that advance to bid opening are likewise considered public records.

Bidders should not submit any matter that they contend constitutes trade secret. If a bidder determines that trade secret information must be included to be responsive to this RFP, the bidder must clearly identify this information. The identification of this information must be contained in a separate document attached to the cover letter. The document should specify the section(s), page number(s), and lines of text to be redacted, and identify any trade secret material within the proposal that should not be released to the public. The bidder must be prepared to protect the material from disclosure, should that become necessary. Questions regarding the Public Records Act should be directed to your own legal counsel. California law can be accessed online at www.leginfo.ca.gov/calaw.html.

5.2 Technical Proposal Sections

Each submission must consist of two separately packaged proposals: a Technical Proposal and a Cost Proposal. All information necessary to judge the technical soundness and the management capabilities of the bidder must be contained in the Technical Proposal.

Bidders are required to follow the Technical Proposal format and content

requirements detailed in this section. The Technical Proposal must be presented in a narrative format demonstrating the ability to meet all qualifications and requirements specified in this RFP. The Technical Proposal must be clearly organized and easy to follow. All pages of the Technical Proposal, including pages with charts, should be numbered sequentially. The Work Plan must use the section and subsection headings specified in the Scope of the Project. The specific staffing titles for key personnel used in this RFP must be used in the Technical Proposal. Other staff titles may be included as appropriate.

Bidder shall NOT include any budget, price, or financial information in any section or required attachment of the Technical Proposal. Cost information included in any section or in any required attachment to the Technical Proposal will result in automatic disqualification and removal of a proposal from further review. Any dollar figures must be redacted before the proposal is submitted to CDE (e.g., DVBE attachments, letters of agreement from subcontractors, etc.).

IF ANY COSTS, RATES, OR DOLLAR AMOUNTS APPEAR IN THE TECHNICAL PROPOSAL, THE BIDDER WILL BE DISQUALIFIED.

5.2.1 Required Sections of the Technical Proposal

The bidder must prepare and submit a Technical Proposal that includes all of the following components, ordered as listed: Cover Letter, Table of Contents, Work Plan, Management and Staffing, Related Experience of Proposed Subcontractors, Related Organizational Experience and Capacity, References, and all required Attachments. The proposal should be submitted in this order and no additional sections may be included. Do not attach pamphlets, letters of support (except from any proposed subcontractors), or other items that are not specifically requested for the Technical Proposal. Any additional sections or materials not specifically requested in this RFP will not be reviewed.

a. Cover Letter -- The Cover Letter must clearly:

1. Present a short summary of the bidder's qualifications and strengths related to the size and scope of the SB 964 Study Report.
2. Acknowledge that the rights to any hard copy/electronic material, report, or other material developed by the bidder or its subcontractors in connection with this agreement shall belong to CDE.
3. Attest to the bidder's eligibility in terms of being legally constituted and qualified to do business in California (see Section 4.1 of this RFP), including reference to submission of a current Certificate of Good Standing, if applicable. Use the bidder's true corporate name, indicate any fictitious name under which the organization is doing

business (“doing business as”), or, in the case of an entity whose legal status precludes incorporation, clearly state the bidder’s legal status in a separate paragraph.

4. Identify acceptance of the contract terms and requirements as specified in Section 7 of this RFP. No additional contract terms or requirements may be added or substituted by the bidder and no corrections to stated contract terms and requirements can be made.
 5. The Cover Letter contained in the ORIGINAL Technical Proposal must only be signed by the representative who is authorized to make the offer on behalf of the bidder to perform the work described. The authorized representative signing this letter must indicate position title and certify that he or she is authorized to make the offer on behalf of the organization/bidder. A copy of the Cover Letter also must be included in each copy of the Technical Proposal submitted.
 6. Identify the mailing address, telephone number, e-mail address, and fax number of the authorized representative who signed the cover letter.
 7. If trade secret information must be included, the bidder must clearly identify this information. The identification of this information must be contained in a separate document attached to the cover letter. The document should specify the section(s), page number(s), and lines of text to be redacted, and identify any trade secret material within the proposal that should not be released to the public.
- b. Table of Contents -- The Table of Contents should identify, by page number, all the section and subsection headings required in the Technical Proposal. In particular, the following sections and subsections need to be included in the Table of Contents.
1. Work Plan, including all the following required sections:
 - Task 3.1 Project Maintenance Activities
 - Task 3.2 SB 964 Study Tasks
 - Task 3.3 Production of SB 964 Study Report
 2. Management and Staffing
 3. Related Experience of Proposed Subcontractors
 4. Related Organizational Experience and Capacity
 5. References (5 detailed client references)

6. Appendices and Required Attachments

- c. Work Plan -- The Work Plan must describe, in detail, the tasks and activities to be undertaken to accomplish the purpose of the project and produce the required final products. This section of the proposal must include a clear and detailed plan and timeline to manage and accomplish the scope of work as specified in Section 3 of this RFP:
- Task 3.1 Project Maintenance Activities
 - Task 3.2 SB 964 Study Tasks
 - Task 3.3 Production of SB 964 Study Report
- d. Management and Staffing -- The Management and Staffing section must present a plan for the internal management of contract work that ensures accomplishment of the tasks according to the timeline submitted in the Technical Proposal.
1. Effective Management -- This section of the Technical Proposal must demonstrate that an effective management team will be established to successfully accomplish the required work. At a minimum, the management team must be composed of a Project Manager and a Fiscal Officer. To be successful, this project requires an effective management system that enables the bidder to complete tasks on schedule and within budget. The management system must include clearly identified procedures for:
- managing project personnel, subcontractors, and tasks
 - ensuring adherence to schedule and deadlines
 - ensuring high-quality products and outcomes
 - identifying potential problems early and seeking solutions immediately
 - maintaining frequent communication with CDE
 - monitoring and controlling project expenditures
2. Staff Organizational Plan -- This section of the Technical Proposal must include a staff organizational plan which identifies staff to be assigned to the project by name, by title as identified in this RFP (additional staff with other titles may be included, but assigned duties must be clear in the proposal), the amount of time devoted to each task, lines of responsibility and approval authority and the name of the Project Manager. The plan must make clear the

relationship of each position to the work plan and staffing for all tasks must be illustrated with a staff organization chart. The proposal must identify the individuals proposed to fill professional positions with sufficient detail to allow an evaluation of the person's competency, experience, and expertise. The proposal must include the same level of detail for proposed project coordinators for the subcontractors.

3. Vitae or Resumes -- This section of the Technical Proposal must include the vitae or resume for the proposed Project Manager, Fiscal Officer, and other professional staff in key positions. All staff must have qualifications appropriate for the tasks they are to perform. Vitae or resume of proposed staff must document all related experience: educational background, roles in related projects, and related publications, if applicable.

The proposal must include the vitae or resume and other material as necessary to show the years of relevant experience by stating the beginning and ending dates (both month and year if less than six years of experience) for all positions listed, depth of qualifications, training, and experience. Primary areas of expertise should be clearly described.

Changes or substitutions to any of the bidder's professional project personnel or management team (e.g., Project Manager or Fiscal Officer) will require formal approval by CDE's Contract Monitor. The independent contractor must submit this request in writing at least 30 days in advance of a staffing change and it must be approved before a change in staffing occurs (see Section 7.3).

The Project Manager must have a minimum of 60 months of experience in managing projects of a related size and scope. The project manager must also have significant expertise on the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.); applicable state law; assessment of pupils with disabilities; and expertise with, and significant understanding of, the complexities of large scale, high stakes assessment systems.

The Fiscal Officer must have a minimum of 36 months of experience managing projects of similar complexity.

This experience for the Project Manager and Fiscal Officer must be clearly indicated in this section of the RFP.

- e. Related Organizational Experience and Capacity -- This section must describe the bidder's capacity, understanding, experience, and ability to perform and administer all tasks related to this RFP including, at a

minimum the following:

- the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.)
- applicable state law
- assessment for students with disabilities
- the complexities of large scale, high stakes assessment systems

- f. Related Experience of Proposed Subcontractors -- This section of the Technical Proposal must identify all proposed subcontractors and their assigned duties. Further, this section must describe the subcontractor's capacity, experience, and ability to perform and administer all tasks related to this RFP. Subsidiaries that are separately incorporated must be clearly identified and must be treated as subcontractors.

The "portion of work" for each proposed DVBE subcontractor must be defined here (see Section 4.3 of this RFP). Curriculum vitae or resumes are not needed on DVBE "subcontractors" who are vendors.

The bidder must submit letters of agreement from proposed subcontractors. Do NOT include any subcontractor rate information in the Technical Proposal. If rates are included in any materials that may be submitted as part of the Technical Proposal, redact the rates prior to submitting the Technical Proposal or it will result in elimination of the proposal from further consideration.

- g. References -- This section must include at least five (5) detailed client references for the bidder relevant to the scope and complexity of the services required by this RFP. These references must include a description of the services performed, the date of these services, and the name, address, and telephone number of the client reference.

5.2.2 Appendices and Required Attachments

This section of the Technical Proposal must include the following completed attachments:

- a. The Nondiscrimination Compliance Statement (Std. 19; see Attachment 1) must be signed and dated with an original signature (preferably in blue ink) in the Original Technical Proposal.
- b. The Small Business Preference Sheet must be completed, with an original signature (preferably in blue ink) in the Original Technical Proposal (attached to this RFP as Attachment 2). If the preference is being claimed, a copy of the certification letter from the Office of Small Business and Disabled Veterans Business Enterprise Certification

(OSDC) must be included.

- c. The Disabled Veterans Business Enterprise (DVBE) attachments in accordance with instructions in Attachment 3 (see Section 5.4 of this RFP for more information).
- d. The State Drug-Free Workplace Certification (Attachment 4) must be signed and dated with an original form signed (preferably in blue ink) in the original Technical Proposal.
- e. A current original Certificate of Good Standing issued by the California Secretary of State, if applicable (see Section 4.1 of this RFP).

5.3 Cost Proposal (Separate sealed envelope, clearly marked as indicated below)

Do NOT package any non-Cost Proposal materials in the Cost Proposal envelope or package – CDE will NOT open a sealed Cost Proposal package for any reason during the Technical Proposal review process.

- a. Cover Sheet -- The first page of the Cost Proposal must be a Cover Sheet. Only the Cover Sheet will be read at the bid opening. The Cover Sheet must indicate the TOTAL amount of the bid for the overall contract without any cost breakdowns. The Cover Sheet should state:

**“[Name of bidder] proposes to conduct the work associated with the
SB 964 Study Report, as described in this RFP, for
\$_____.”**

The contract will be awarded to the lowest responsible bidder meeting the requirements of this RFP. The resulting contract will be a Cost Reimbursement contract based on the Cost Proposal submitted and actual expenses documented for payment.

Note that your total contract bid amount is for all tasks and personnel specified in the Scope of the Project and all related overhead or indirect costs. No direct or indirect cost of carrying out the project shall be omitted and no amendments to the bid amount submitted in the Cost Proposal will be allowed. Do not propose options for additional costs. Contract amendments will only apply in the following cases: (1) CDE requests additional new work outside the scope of this RFP based on legislative action or a change in policy by SBE, or (2) there is a change in any budget line item(s) of more than 10% (refer to Section 7.1). Sole source approval by the DGS, Office of Procurement is required before CDE can prepare the amendment. The amendment must be approved by the DGS, Office of Legal Services.

- b. Cost Proposal -- The Cost Proposal must contain a detailed line-item budget for completion of the work outlined in the Technical Proposal. The Cost Proposal must be broken down by budget line-items and by major tasks. The Cost Proposal must provide a clear computation and explanation of all rates, including indirect cost detail. All staffing titles used in the Cost Proposal, including Project Manager and Fiscal Officer, must correspond to the staffing titles used in the Technical Proposal.

The Cost Proposal must include the following components:

1. Cost breakdown of all major labor costs by tasks (e.g., cost of producing draft and final reports) and budget line-items, including hourly or billing rates for all personnel and the total number of hours projected for this project.
2. Cost breakdown of all operating expense detailed by budget line-items.
3. Separately identified overhead/indirect costs supported by indirect cost detail: specify the distribution base (such as direct salaries and wages, or other base which results in an equitable distribution), and identify the costs by type that are charged as indirect (such as costs of operating and maintaining facilities; and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting. If the bidder has a federally-approved indirect cost rate, state that fact and identify the federal cognizant agency (i.e., the federal agency that approved the rate).
4. Summary of total costs by budget line-items and the overall total for the entire project.
5. Any subcontractor expenses must be displayed in the same detailed manner as the preceding breakdown(s). This includes labor costs, operating expenses, fixed cost detail, and indirect cost detail including information regarding federally-approved rates, as well as the required cost summaries.

All travel costs must not exceed those established for CDE's non-represented employees, computed in accordance with, and allowable pursuant to, applicable Department of Personnel Administration regulations (See Attachment 5).

The outside of the sealed envelope containing the Cost Proposal bid information must read:

**COST PROPOSAL
FOR THE
SB 964 STUDY REPORT**

Do not open before March 26, 2004, at 10:30 a.m. PT.

5.4 Disabled Veteran Business Enterprise Participation Goals

Public Contract Code Section 10115 requires that State contracts have a participation goal of three percent (3%) for disabled veteran business enterprises (DVBE) as defined in Military and Veterans Code Section 999 (see Attachment A). In addition, Public Contract Code Section 10115.2 requires that contracts be awarded “to the lowest responsible bidder meeting or making good faith efforts to meet these goals.”

To be responsive to this RFP, the bidder must comply with either Option A (Commitment to full DVBE participation) or Option B (Good Faith Effort) below and so indicate on Attachment 3-A:

a. Commitment to full DVBE participation:

- The bidder is a DVBE and commits to performing at least three percent (3%) of the bid amount itself or in combination with other DVBE(s); or
- Commit to using Office of Small Business and DVBE Certified (OSDC) DVBE(s) for at least three percent (3%) of the bid amount.

Compliance with “meeting the goal” shall be certified by completing Attachment 3-A (DVBE1). A letter of commitment prepared by other participating DVBE subcontractor(s)/supplier(s), including the goods or services being provided and a copy of the OSDC DVBE certification, must be attached to the DVBE1.

- b. Good Faith Effort (GFE) performance and documentation** requirements must be completely satisfied prior to bid submission. Perform and document the following Steps 1 through 5 on both sides of the attached DVBE1. Failure to document GFE Steps 1 through 5 as instructed, which includes properly completing and submitting the

DVBE1, will result in rejection of the bid.

- Contact the CDE's Contracts Office at (916) 322-3035 for assistance in identifying potential DVBEs; and
- Contact other state and federal government agencies and local DVBE organizations to identify potential DVBEs which could provide goods/services applicable to this contract (see Attachment 3); and
- Advertise in trade papers and papers focusing on DVBEs at least fourteen (14) calendar days prior to the due date for the proposal; CDE requires two separate publications (see Attachment 3); and
- Invite (solicit) DVBEs who can provide relevant goods and/or services (commercially useful functions) relevant to this solicitation. Conducting Steps 1 through 3 produces a list of DVBEs from which potential DVBEs may be chosen. Bidders are advised to contract as many DVBEs (who provide relevant goods and/or services in the applicable locations(s)) as possible; and
- **Consider all responding** DVBEs for contract participation. Consideration must be based on business needs for the contract and the same evaluation criteria must be applied to each potential DVBE subcontractor/supplier offering the same goods and services (commercially useful functions).

Compliance with "good faith effort" shall be documented by completion of Attachment 3-A indicating dates/times/contact names for agencies contacted; names of papers used and date(s) of advertising and a copy of the advertisement; names of potential DVBEs solicited and date(s) of solicitation; and names of those considered for participation and, if applicable, the reasons for non-selection. In addition, a letter of commitment prepared by participating DVBE subcontractor(s)/supplier(s), including the goods or services being provided and a copy of the OSDC DVBE certification, must be attached to the DVBE 1.

Final determination of either "goal attainment" or "good faith effort" by the bidder shall be at the sole discretion of the CDE.

6. MONITORING ACTIVITIES

The CDE and all authorized state control agencies must have access to all internal and external reports, documents, data, and working papers used by the Contractor and subcontractors in the performance and administration of this contract. The CDE shall have the right to monitor all aspects of the Contractor's performance.

The Contractor must provide all duly authorized representatives to CDE or the State with full access to any and all contractor and subcontractor procedures relevant to the tasks outlined in the scope of the project.

The CDE Contract Monitor and the Contractor's Project Manager must communicate on a weekly basis, as needed and scheduled by CDE, to review progress and performance. The review criteria will include, but not be limited to, problems encountered under the contract, future performance under the contract, and any other subject(s) relating to completion of tasks under this contract. A monthly progress report must be prepared by the Project Manager, submitted to CDE for review, and finalized and distributed by the Contractor as requested by CDE.

With each invoice (1 original and 1 copy) for reimbursement, the Contractor must attach the corresponding written monthly progress report (1 original paper and 1 copy), which includes a summary of activities completed, a list of deliverables produced, and outstanding issues for decision by CDE. Additionally, each invoice must present budget line-item(s) and task(s) detail as outlined in the proposal.

The Contractor must retain and update records and accounts on a monthly basis and must be able to prepare and submit statistical, narrative, financial and/or program reports and summaries related to this contract as requested by CDE.

Unless otherwise requested by CDE, the Contractor must prepare reports and summaries in the format herein described. The Contractor's name must appear only on the cover and title page of reports and summaries. Covers and title pages must read as follows:

California Department of Education
Standards and Assessment Division
(Title of Report or Summary)
by (Contractor's Name)
Contract # _____
Date _____

The State reserves the right to use and reproduce all reports, summaries, and data reports developed pursuant to this agreement.

7. CONTRACT TERMS AND REQUIREMENTS

7.1 Compensation

Payment(s) shall be made in arrears, on a monthly basis, upon satisfactory completion of each identified task and receipt of an itemized invoice (see Section 6 of this RFP) and a hard-copy monthly progress report of activities performed during the invoice period with original signature(s). The State shall retain from each payment an amount equal to ten percent (10%) of the payment. The ten percent (10%) withheld shall be released upon satisfactory completion of each State fiscal year's tasks as specified herein, submission

of an invoice, and submission of a Contract/Contractor Evaluation (Std. 4) form by the State contract monitor and submission of the Std 4 to the Contracts Office in accordance with Public Contract Code Section 10379. The State shall make final payment upon satisfactory completion and acceptance of all contracted work, submission of a final invoice, submission of equipment disposition as described in Section 7.6 of this RFP, and submission of a final Standard Form 4 by the State contract monitor.

Surplus funds from a given line item of the budget, up to ten percent (10%) of that line item, may be used to defray allowable direct costs under other budget line items with prior written CDE approval. If required by State law or a policy change, any budget line item change of more than ten percent (10%) requires a contract amendment and approval by the DGS. **Changes cannot be made which increase the rates of reimbursement.**

All travel costs shall be reimbursed at rates not to exceed those established for CDE's non-represented employees, computed in accordance with, and allowable pursuant to, applicable Department of Personnel Administration regulations (see Attachment 5).

7.2 Contract Requirements Related to DVBE Participation Goals

Substitution of a DVBE

- a. After award of a contract, the successful contractor must use the DVBE subcontractor(s) and/or supplier(s) proposed in the solicitation response to the State per Title 2 Section 1896.62 unless a substitution is requested. The contractor must request the substitution in writing to the contract monitor and the CDE must have approved the substitution in writing. At a minimum the substitution request must include:
 1. A written explanation of the reason for the substitution; and if applicable, the contractor must also include the reason a non-DVBE subcontractor is proposed for use.
 2. A written description of the business enterprise to be substituted, including its business status as a sole proprietorship, partnership, corporation or other entity, and the DVBE certification status of the firm, if any.
 3. A written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall contract that the substituted firm will perform.
- b. The request for substitution of the DVBE subcontractor/supplier must be approved in writing by the awarding department prior to commencement of any work by the subcontractor/supplier.
- c. The request for substitution of a DVBE and the awarding department's approval or disapproval cannot be used as an excuse for

noncompliance with any other provision of law, including, but not limited to, the Subletting and Subcontracting Fair Practices Act (Sections 4100 et seq., Public Contract Code) or any other contract requirements relating to substitution of subcontractors.

- d. If a contractor requests substitution of its DVBE subcontractor(s)/supplier(s) by providing a written request in accordance with Title 2 Section 1896.64(c), CDE may consent to the substitution of another person as a subcontractor in any of the following situations:
 - 1. When the subcontractor listed in the bid after having had a reasonable opportunity to do so fails or refuses to execute a written contract, when that written contract based upon the general terms, condition, plans and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.
 - 2. When the listed subcontractor becomes bankrupt or insolvent, or goes out of business.
 - 3. When the listed subcontractor fails or refuses to perform his or her subcontract.
 - 4. When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor.
 - 5. When the prime contractor demonstrated to the awarding department, or its duly authorized officer, that the name of the subcontractor was listed as the result of an inadvertent clerical error.
 - 6. When the listed subcontractor is not licensed pursuant to any applicable licensing requirement of any regulatory agency of the State of California.
 - 7. When the CDE, or its duly authorized officer, determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the process of the work.
- e. Prior to approval of the prime contractor's request for the substitution, the CDE, or its duly authorized officer, shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified shall have five working days within which to submit written objections to the substitution to the

awarding authority. Failure to file these written objections shall constitute the listed subcontractor's consent to the substitution.

- f. If written objections are filed, the awarding authority shall give notice in writing of at least five working days to the listed subcontractor of a hearing by the awarding department on the prime contractor's request for substitution.

The request and the State's approval or disapproval is NOT to be construed as an excuse for noncompliance with any other provision of law, including but not limited to, the Subletting and Subcontracting Fair Practices Act or any other contract requirements relating to substitution of subcontractors.

Failure to adhere to at least the DVBE participation proposed by the successful bidder may be cause for contract termination and recovery of damages under the rights and remedies due the State under the default section of the contract.

Reporting

The successful contractor must agree to provide reports of actual participation by DVBEs (by dollar amount and category) as may be required by CDE to document compliance.

Compliance Audit

The Contractor must agree that the State or its designee will have the right to review, obtain, and copy all records pertaining to performance of the contract. The Contractor must agree to provide the State, or its designee, with any relevant information requested and shall permit the State, or its designee, access to its premises, upon reasonable notice, during normal business hours, for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. The Contractor must further agree to maintain such records for a period of five (5) years after final payment under the contract.

7.3 Staff Replacements

Changes to any of the Contractor's professional project personnel or management team (e.g., Project Manager or fiscal officer) requires formal approval by CDE's Contract Monitor. The Contractor must submit this request in writing at least 30 days in advance of a staffing change and it must be approved before a change in staffing occurs.

7.4 Ownership of Materials, Patents, Copyrights, Trademarks, and Trade Secrets

All materials developed under the terms of this agreement will become the property of CDE. CDE reserves the exclusive right to copyright such material, and to publish, disseminate, and otherwise use materials developed under the terms of this agreement. Copyright for CDE must be noted on all materials produced for the purposes of this contract, including, but not limited to, test forms, sample test materials, and presentation materials. The Contractor acknowledges that the rights to any report, computer program, documentation for programs, exams, exam items, or other material developed by the Contractor or its subcontractors in connection with this agreement shall belong to CDE. The CDE acknowledges that any materials and proprietary computer programs previously developed by the Contractor or its subcontractors shall belong to the Contractor or its subcontractors.

The Contractor warrants that it has secured or shall have secured any necessary rights, clearances, and/or licenses with respect to all materials and elements embodied in or used in connection with the performance of this contract, and that all included material shall neither violate nor infringe upon the copyright, service mark, trademark, privacy, creative, or other rights of any person, firm, corporation, or other third party. The Contractor must provide CDE with documentation indicating a third party's permission for CDE to use the third party's materials, such as a reading passage excerpted from a book or short story or artwork, for eight (8) years.

CDE reserves the right to review any materials potentially for sale to determine if they are outside the scope of work. The Contractor must seek review and approval from CDE before proceeding to produce for sale any materials related to this contract.

7.5 Retention of Records

The Contractor must maintain accounting records and other evidence pertaining to costs incurred, with the provision that the Contractor must keep them available during the contract period and thereafter for five (5) full years from the date of the final payment. The Contractor shall keep all compliance forms for inspection during the term of the contract and for five (5) years thereafter. The CDE and its designees must be permitted to audit, review, and inspect the Contractor's activities, books, documents, records, and papers during progress of work and for five (5) years following final payment.

7.6 Ownership and Disposition of Equipment

Equipment purchased under the provisions of the contract is the property of the State and shall be used for its intended purpose during the term of this agreement. An inventory of all equipment purchased under the contract shall

be maintained. After termination of the agreement, equipment shall be disposed of in accordance with instructions from CDE.

7.7 National Labor Relations Board Certification

By signing the contract, the Contractor swears under penalty of perjury that no more than one (1) final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a Federal Court which orders the Contractor to comply with an order of the National Labor Relations Board. (not applicable to public agencies).

7.8 Anti-trust Claims (Government Code sections 4552-4554)

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC Section 15) or under the Cartwright Act (Chapter 2) commencing with Section 16700 of Part 2 of Division 7 of the Business and Professions Code, arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

Upon demand in writing by the assignor, the assignee shall, within one (1) year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

7.9 Recycled Paper Certification (Public Contract Code Sections 10308.5/10354)

By signing the contract, the Contractor agrees to certify in writing to CDE, under penalty of perjury, the minimum, if not exact, percentage of recycled content, both postconsumer material and secondary material as defined in Public Contract Code Sections 12161 and 12200, in materials, goods or supplies offered or products used in the performance of the contract,

regardless of whether the product meets the required recycled product percentage as defined in Sections 12161 and 12200. The Contractor must certify that the product contains zero recycled content.

7.10 Air or Water Pollution Violations (Government Code Section 4477)

By signing the contract, the Contractor swears under penalty of perjury that the Contractor is not: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control District; (2) subject to a cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibition; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution. This provision does not apply to public agencies.

7.11 Child Support Compliance Certification (Public Contract Code Section 7110)

By signing this agreement, the Contractor acknowledges that (a) it recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement including, but not limited to, disclosure of information and compliance with earnings assignment orders as provided in Chapter 8 (commencing with Section 5200) of part 5 of Division 9 of the Family Code; and (b) to the best of its knowledge it is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

7.12 Computer Software Copyright Compliance

By signing this agreement, the Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

7.13 Prohibition Against Outside Agreements

The Contractor and subcontractor(s) must not enter into agreements related to products and/or services of this contract without the prior approval by the State of a work proposal and budget for the work proposed.

7.14 Confidentiality

The Contractor shall not disclose data or documents or disseminate the contents of documents or reports without express written permission from CDE Contract Monitor.

Contractor shall not comment publicly to the press or any other media regarding its data or documents, or CDE actions on the same, except at a public hearing, or in response to questions from a legislative committee.

The Contractor must immediately notify CDE if a third party requests or subpoenas documents related to this contract.

7.15 Correspondence

Correspondence prepared by the Contractor relating to the logistics of tasks to be performed by the Contractor under the scope of work of this contract or correspondence of an informational nature related to the program supported by this contract which is prepared by the Contractor must be reviewed by CDE prior to mailing or distribution.

As a standard business practice, the Contractor must "copy" CDE Contract Monitor on each final letter and memorandum prepared by the Contractor under the scope of work of this contract.

The Contractor must provide CDE with three (3) business days to review correspondence prepared by the Contractor under the scope of work of this contract.

7.16 News Releases

The Contractor must not issue any news releases or make any statement to the news media in any way pertaining to this contract without the prior written approval by CDE, and then only in cooperation with CDE.

7.17 CDE Approval of Deliverables

All approvals, orders for correction, or disapprovals from CDE must be in writing. If CDE rejects a deliverable or product as unacceptable, the Contractor shall make required corrections within the time frame required by CDE.

Failure of the Contractor to obtain prior CDE approval of deliverables or products shall not relieve the Contractor of performing the related contract responsibilities and providing related required deliverables or products to CDE. The Contractor must accept financial responsibility for failure to meet agreed-upon timelines and quality standards. The CDE shall have no liability for payment of any work, of any kind whatsoever, which commences without prior CDE approval. Refer to Appendix 2 -Checklist of Major Project Deliverables (This is not meant to be a comprehensive list and does not supersede the Scope of the Project).

7.18 Union Organizing and Activities

- a. By signing this agreement the Contractor hereby acknowledges the

applicability to this agreement of Government Code Section 16645 through Section 16649.

1. Contractor will not assist, promote, or deter union organizing by employees performing work on a state service contract, including a public works contract.
 2. No state funds received under this agreement will be used to assist, promote, or deter union organizing.
 3. Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors if the purpose of such meetings is to assist, promote, or deter union organizing, unless the state property is equally available to the general public for holding meetings.
 4. If the Contractor incurs costs or makes expenditures to assist, promote, or deter union organizing, the Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs. The Contractor shall provide these records to the Attorney General upon request.
- b. The Contractor hereby certifies that no request for reimbursement or payment under this agreement will seek reimbursement for costs incurred to assist, promote, or deter union organizing.

7.19 Standard Agreement Provisions

If awarded the contract, the successful bidder must accept the provisions on the reverse side of the Standard Agreement (Std. 2 form) without exception. The provisions are as follows:

- a. The Contractor agrees to indemnify, defend, and hold harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material-men, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor in the performance of this contract.
- b. The Contractor, and the agents and employees of the Contractor, in the performance of the agreement, shall act in an independent capacity and not as officers or employees or agents of State of California.
- c. The State may terminate this agreement and be relieved of the payment of any consideration to the Contractor should the Contractor fail to perform the covenants herein contained at the time and in the

manner herein provided. In the event of such termination the State may precede with the work in any manner deemed proper by the State. The cost to the State shall be deducted from any sum due the Contractor under this agreement, and the balance, if any, shall be paid the Contractor upon demand.

- d. Without the written consent of the State, this agreement is not assignable by the Contractor either in whole or in part.
- e. Time is of the essence in this agreement.
- f. No alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- g. The consideration to be paid the Contractor, as provided herein, shall be in compensation for all of the Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

7.20 Prohibited Bids Concerning End Product of Contract

In compliance with Public Contract Code section, 10365.5, no person, firm, or subsidiary thereof that is awarded this contract, (nor any sub-contractor of more than 10% of the total monetary value of this contract), may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in this contract.

8. EVALUATION PROCESS

The proposal shall be evaluated by a selection panel as specified in Education Code Section 60852.5 (a) consisting of one (1) representative appointed by each of the following persons and entities:

- The President pro Tempore of the Senate
- The Speaker of the Assembly
- The Legislative Analyst's Office
- The State Department of Education
- The Department of Finance

In the event of a two-way (or more) tie **for the lowest responsible bid**, the method that shall be used as a "tie-breaker" will be to place the names of the bidders in a container to be randomly drawn. The first name drawn will be the

proposed awardee.

Each proposal shall be evaluated to determine responsiveness to the general requirements as well as format and content requirements as described in this RFP. The proposal must be submitted in two parts: Technical Proposal and Cost Proposal. The CDE reserves the right to reject any or all proposals. Nothing herein requires the awarding of a contract in response to this RFP. The selection process complies with the requirements for competitive bidding in the State Public Contract Code section 10344(b) requiring prospective bidders to submit their Technical Proposals and Cost Proposals in separate sealed envelopes or packages.

Following the time and date for receipt of proposals, each Technical Proposal shall be opened and evaluated by the Selection Panel using a two-step process.

Step I consists of three parts:

- a. Part 1 addresses the proposal's adherence to format and content requirements.
- b. Part 2 addresses the minimum qualifications of the bidder, including ability to conduct business in California and with at least sixty (60) months of experience in conducting similar studies and with significant expertise on the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and applicable state law, as well as assessment of pupils with disabilities, who submitted a proposal by the acceptance deadline. The bidder must have expertise with, and significant understanding of, the complexities of large scale, high stakes assessment systems
- c. Part 3, Technical Evaluation, shall yield numeric score ratings. A selection panel using a consensus process will rate each proposal on the criteria described in Step I, Part 3. Any proposal receiving a rating of less than **90 out of 100 (90%)** possible points shall be rejected.

Proposals shall be evaluated on a yes-no basis for all criteria in the first two parts of Step I. Receipt of a "no" on any item shall result in elimination of the proposal from further consideration.

Step II of the process is the public opening of the envelope containing the cost proposal. Only those proposals passing the first step of the process shall have their envelopes opened and read. The CDE will review the Cost Proposals for compliance with the standards and requirements as listed in Section 5.3 of this RFP. The Cost Proposals are not scored. Cost proposals that fail to provide the required information and detail will result in elimination of the proposal from further consideration.

The public opening of the Cost Proposals for those proposals passing all three parts of the Step I shall be held:

March 26, 2004, 10:30 a.m. PT at the
California Department of Education
1430 N Street, 2nd Floor, Conference Room 2102
Sacramento, California

The Small Business Preference shall be computed if required documentation is included in the proposal and adjustments to bid prices shall be made accordingly. The contract shall be awarded to the lowest responsible bidder meeting the specifications as described herein.

The notice of the proposed contractor to receive the award shall be posted for five (5) business days beginning March 29, 2004, in the lobby of CDE building near the elevators, 1430 N Street, Sacramento, California, and on the CDE Web site. During the same period, proposals and rating sheets shall be available for public inspection at CDE, Standards and Assessment Division, 1430 N Street, Suite 5408, Sacramento, CA 95814 during normal business hours. After the five-day notice has been completed, the proposed awardee shall be formally notified by mail.

9. CONTRACT AWARD PROTEST PROCEDURES

If, prior to the formal award, any bidder files a protest with DGS against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the DGS has decided the matter. Within five (5) days after filing the protest, the protesting bidder shall file with the DGS a full and complete written statement specifying the grounds for the protest. Protests shall be limited to those specified in Public Contract Code Section 10345 (Attachment 6 describes the protest procedures to be followed by a bidder filing a protest). The protest period ends at the conclusion of the five-day notice period.

10. FORMAT REQUIREMENTS AND EVALUATION CRITERIA

Bidder's Name: _____

Step I, Part 1—Adherence to Format and Content Requirements This step is rated on a yes-no basis and receipt of a “no” on any of the following shall result in disqualification of the proposal from further consideration and review.

- ☐ yes ☐ no 1. The bidder submitted Intent to Submit form by the specified deadline, February 19, 2004 at 2:00 pm PT.
- ☐ yes ☐ no 2. Bidder submitted one (1) clearly marked ORIGINAL Technical Proposal and ten (10) copies by the specified deadline: March 19, 2004, no later than 12:00 noon PT to the Standards and Assessment Division of the California Department of Education.
- ☐ yes ☐ no 3. The clearly marked ORIGINAL Technical Proposal included the Cover Letter signed by the authorized representative as specified in Section 5.2.1 (a)(5).
- ☐ yes ☐ no 4. Bidder submitted the Cost Proposal in a separate, sealed envelope or package by the specified deadline: March 19, 2004, no later than 12:00 noon PT to the Standards and Assessment Division of the California Department of Education. When opened on the date specified for the Bid Opening, one (1) clearly marked ORIGINAL Cost Proposal and five (5) copies must be included.

Cover Letter

5. The Proposal contains a Cover Letter that must:

- ☐ yes ☐ no a. Present a short summary of the bidder’s qualifications and strengths related to size and scope of SB 964 Study Report.
- ☐ yes ☐ no b. Acknowledge that the rights to any hardcopy/electronic material, report, or other material developed by the bidder or its subcontractors in connection with this agreement shall belong to CDE.
- ☐ yes ☐ no c. Attest to the bidder’s eligibility in terms of being legally constituted and qualified to do business in California (see Section 4.1 of this RFP), including reference to submission of a current Certificate of Good Standing, if applicable. Use the bidder’s true corporate name, indicate any fictitious name under which the organization is doing business (“doing business as”), or, in the case of an entity whose legal status precludes incorporation, clearly state the bidder’s legal status in a separate paragraph.
- ☐ yes ☐ no d. Identify acceptance of the contract terms and requirements

- as specified in Section 7 of this RFP. No additional contract terms or requirements may be added or substituted by the bidder and no corrections to stated contract terms and requirements can be made
- ☐ yes ☐ no
- e. The Cover Letter contained in the ORIGINAL Technical Proposal must only be signed by the representative, who is authorized to make the offer on behalf of the bidder to perform the work described. The authorized representative signing this letter must indicate position title and certify that he or she is authorized to make the offer on behalf of the organization/bidder. A copy of the Cover Letter also must be included in each copy of the Technical Proposal submitted.
- ☐ yes ☐ no
- f. Identify the mailing address, telephone number, e-mail address, and fax number of the authorized representative who signed the cover letter.
- ☐ yes ☐ no
- g. If trade secret information must be included, the bidder must clearly identify this information. The identification of this information must be contained in a separate document attached to the cover letter. The document should specify the section(s), page number(s), and lines of text to be redacted, and identify any trade secret material within the proposal that should not be released to the public.

Table of Contents

- ☐ yes ☐ no
6. The Table of Contents identifies all the required sections and subsections as outlined in the RFP.

Work Plan

- ☐ yes ☐ no
- ☐ yes ☐ no
- ☐ yes ☐ no
7. The Work Plan has a clear and detailed plan and timeline and addresses the tasks listed below.
- a. Task 3.1 Project Maintenance Activities
- b. Task 3.2 SB 964 Study Tasks
- c. Task 3.3 Production of SB 964 Study Report

Management and Staffing

- ☐ yes ☐ no
- ☐ yes ☐ no
8. The Technical Proposal contains a Management and Staffing section that presents a plan to manage the contract work that ensures accomplishment of the tasks according to the timeline as specified in Section 3 of this RFP. This section must:
- a. Identify a management team that must include at least a Project Manager and a Fiscal Officer.
- b. Include a Staff Organizational Plan which identifies staff to be assigned to the project by name, title, the amount of time devoted to each task, lines of responsibility and

- ☐ yes ☐ no
- c. approval authority and the name of the Project Manager. Include vitae or resumes for the proposed Project Manager, Fiscal Officer, and other professional staff in key positions. Vitae and resumes must state the beginning and ending dates (month and year) to document related experience.

Related Organizational Experience and Capacity

9. This section must describe the bidder's capacity, understanding, experience, and ability to perform and administer all tasks related to this RFP:
- ☐ yes ☐ no
- a. Describe the bidder's capacity, experience, and ability to performance and administer all tasks related to this RFP.
- ☐ yes ☐ no
- b. Describe the bidder's capacity, understanding, experience, and ability to perform and administer all tasks related to this RFP including, at a minimum the following:
- the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.)
 - applicable state law
 - assessment for students with disabilities
 - the complexities of large scale, high stakes assessment systems

Related Experience of Proposed Subcontractors

10. The Technical Proposal contains a Related Experience of Proposed Subcontractors section that, if applicable, must:
- ☐ yes ☐ no
- a. Identify any proposed subcontractors and their primary duties.
- ☐ N/A ☐ yes ☐ no
- b. Identify any DVBE subcontractors and their proposed portion of work (If NOT APPLICABLE, continue to "references" below).
- ☐ N/A ☐ yes ☐ no
- c. Describe the subcontractor's capacity, experience, and ability to perform and administer all tasks related to this RFP (If NOT APPLICABLE, continue to "References" below).
- ☐ N/A ☐ yes ☐ no
- d. Submit letters of agreement from any proposed subcontractors (If NOT APPLICABLE, continue to "References" below).

References

11. The Technical Proposal contains at least five (5) detailed client References that must:
- ☐ yes ☐ no a. Reference the bidder's services to the client relevant to the scope and complexity required by this RFP.
- ☐ yes ☐ no b. Describe the services performed, the date of these services, and the name, address, and telephone number of each client reference.

Appendices and Required Attachments

12. Required forms as specified in section 5.2.2 submitted with each copy of the Technical Proposal (check each one submitted):
- ☐ yes ☐ no a. Nondiscrimination Compliance Statement (Attachment 1) completed with an original signature on the form included in the ORIGINAL Technical Proposal.
- ☐ yes ☐ no b. Small Business Preference Sheet (Attachment 2) completed and a copy of the OSDC certification letter included in the technical proposal if the preference is being claimed or date of application indicated if not yet certified.
- ☐ yes ☐ no c. Disabled Veteran Business Enterprise (DVBE) Participation Goals must have all of the following:
- ☐ yes ☐ no Attachment 3-A (DVBE1)
- ☐ yes ☐ no Commitment letter from each participating DVBE
- ☐ yes ☐ no Certification letter from OSDC for each participating DVBE
- ☐ yes ☐ no d. CDE Contracts Office has determined compliance with DVBE participation goals.
- ☐ yes ☐ no e. Certification Regarding Provision of a Drug-Free Workplace (Attachment 4) completed with an original signature on the form included in the original proposal.
- ☐ yes ☐ no f. Certification of Good Standing issued by the California Secretary of State, if applicable

Step I, Part 2—Bidder Eligibility

This step is rated on a yes-no basis and receipt of a “no” on either of the following shall result in disqualification of the proposal from further consideration and review.

- | | | |
|------------------------------|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> yes | <input type="checkbox"/> no | 1. The bidder is a public or private corporation, agency, organization, or association and is legally constituted and qualified to do business within the State of California (registered with the Secretary of State). With the exception of bidders whose legal status precludes incorporation, bidders that are not fully incorporated by the deadline for submission shall be disqualified. A Corporation or LLC must submit a current original Certificate of Good Standing or a statement of other legal status that precludes incorporation is clearly stated in the Cover Letter. |
| <input type="checkbox"/> yes | <input type="checkbox"/> no | 2. The bidder has at least 60 months experience in conducting studies of a similar nature and scope to the SB 964 Study Report. |
| <input type="checkbox"/> yes | <input type="checkbox"/> no | 3. The designated Project Manager has a minimum of 60 months of experience in managing projects of a related size and scope. |
| <input type="checkbox"/> yes | <input type="checkbox"/> no | 4. The designated Fiscal Officer has a minimum of 36 months of experience in managing projects of similar complexity. |

Step I, Part 3— Technical Evaluation of the Proposal

A selection panel will be convened to evaluate the proposals using a consensus process.

The selection panel will use the criteria on the following pages (41-43) to evaluate the Technical Proposal and obtain a final consensus score.

The points for each section are noted along with the percent of total by section.

A minimum of **90 out of 100 (90%)** points is required for a proposal to be advanced to the bid opening.

Assessing Quality of the Work Plan (Scope of the Project)

3.1 – Project Maintenance Activities

Assess the quality of the proposal in terms of addressing the required activities, including progress reports, bi-weekly meetings with CDE, and advisory panel meetings.

3.1 – Project Maintenance Activities

Consensus score: _____ out of 10 points possible

3.2 – SB 964 Study Tasks

a. Assess the quality of the proposal in terms of the work plan and timeline for identifying those provisions of state and federal law and regulations that are relevant to graduation requirements and assessments for California students who are individuals with exceptional needs as defined in Section 1 of this RFP under Purpose.

b. Assess the quality of the proposal in terms of the work plan and timeline, for the plan for recommending the steps necessary, to the extent applicable and in keeping with the court's ruling in Chapman, et al. v. CDE, et al., (U.S.D.C. CV-01-01780), to bring California into full compliance with the state and federal law and regulations that are relevant to graduation requirements and assessments for California students who are individuals with exceptional needs as defined in Section 1 of this RFP under Purpose.

c. Assess the quality of the proposal in terms of work plan and timeline to identify options for graduation requirements and assessments, if any, for California students who are individuals with exceptional needs as defined in Section 1 of this RFP under Purpose.

d. Assess the quality of the proposal in terms of the work plan and timeline to identify options for assessments that are aligned with the academic content standards on the CAHSEE and equivalent to the CAHSEE for California students who are individuals with exceptional needs as defined in Section 1 of this RFP under Purpose.

e. Assess the quality of the proposal in terms of identifying equivalent alternatives to the CAHSEE that would allow students to demonstrate their competency in the English-language arts and mathematics academic content standards assessed on the CAHSEE and receive a high school diploma.

3.2 – SB 964 Study Tasks (Continued)
f. Assess the quality of the proposal in terms of providing a summary of reports, research, and analysis done to identify the options in c, d, and e above.
g. Assess the quality of the proposal in terms of providing a summary of alternative graduation requirements from other states that have a high-stakes examination as a condition of graduation.
h. Assess the quality of the proposal in terms of addressing how evidence will be provided about how any recommended assessments will meet the requirements for a high stakes, graduation exam as described in Section 2 of this RFP under Test Design, Validity, and Reliability. For each option, the bidder must provide evidence regarding an alternative assessment in response to the criteria in Section 3.2.h of this RFP.
i. Assess the quality of the proposal in terms of the plan to recommend options for graduation requirements and assessments for pupils who are individuals with exceptional needs as defined in this RFP.
j. Assess the quality of the proposal in terms of the plan to recommend alternatives to the CAHSEE for how students may demonstrate their competency in reading, writing, and mathematics, and receive a high school diploma.
k. Assess the quality of the proposal in terms of the plan for recommending an alternative diploma if the recommended options regarding graduation requirements and/or recommended assessments and/or recommended alternatives to the CAHSEE are not equivalent to the graduation requirements and assessments for non-disabled students.

3.2 – SB 964 Study Tasks

Consensus score: _____ out of 50 points possible

3.3– Production of SB 964 Study Report
a. Assess the quality of the proposal in terms of the timeline and plan to produce a preliminary report for review by the Advisory Panel.
b. Assess the quality of the proposal in terms of the timeline and plan to produce a final report and sufficient copies for delivery of reports to CDE by May 1, 2005.

3.3– Production of SB 964 Study Report

Consensus score: _____ out of 15 points possible

4.1 – Bidder Eligibility and References
a. Assess the bidder’s eligibility and experience with projects of a similar nature and scope to the SB 964 Study Report.
b. Assess the bidder’s experience with and knowledge of the federal Individuals with Disabilities Education Act (IDEA) and applicable state law.
c. Assess the bidder’s experience with and knowledge of assessment for students with disabilities.
d. Assess the bidder’s expertise with and significant understanding of the complexities of large scale, high stakes assessment systems.

4.1 – Bidder Eligibility and References

Consensus score: _____ out of 25 points possible

Final Consensus Score

Section	Possible Points	Consensus Score by Section
3.1 Project Maintenance Activities	10	
3.2 SB 964 Study Tasks	50	
3.3 Production of SB 964 Study Final Report	15	
4.1 Bidder Eligibility and References	25	
TOTAL	100	

The Total Proposal Score must be equal to or greater than 90 percent of the 100 total possible points to continue to Step 2 (public opening of the envelope containing the cost information).